

For Immediate Release:

May 30, 2013

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AFSCME Members WIN!

Supreme Court Issues Speedy Decision on Pay-Plan Case

New Mexico's Supreme Court today ruled through an Order of Affirmance that the State Personnel Board breached the union contract by inappropriately distributing legislative appropriated funds resulting in thousands of state employees being shorted on a July 2009 negotiated wage increase. The incredibly speedy decision comes only two weeks after hearing arguments from union and state attorneys and sets the stage for union employees to receive back pay in amounts ranging from hundreds to thousands of dollars.

A spokesperson for Governor Martinez said last year that paying the back wages could run above \$20 million. Coming on the heels of multiple years of budget surpluses, AFSCME believes the state has enough in reserves to pay the back wages immediately. Speaking before the Supreme Court, state's attorney Thomas Stahl speculated the state would consider layoffs or furloughs to pay for the back wages.

Concluding that a formal decision or opinion would not materially advance the law of this State, the Supreme Court remanded the case back to the District Court (who previously ruled for the union) to work out the details of the back pay order.

"Governor Martinez has had every opportunity to stop this needless waste of taxpayer dollars litigating against this raise that is rightly owed," said Connie Derr, Executive Director of Council 18. "Instead, she tried everything to avoid treating state employees justly. We WON every step of the way, through two Arbitrations, District Court, Court of Appeals, and now finally at the Supreme Court. At each level, the State's arguments against its employees grew weaker and weaker. The Governor must honor the state's contracts, even when there are political points to be scored by violating them."

"This Order of Affirmance from the Supreme Court is testament of how clear-cut this case has been all along. The state entered into a legal agreement with its employees, and it owes them money." concluded union attorney Shane Youtz.

From the Order: ***"The State Personnel Board took actions to allocate a portion of those appropriated funds to purposes other than fulfillment of the State's contractual obligations. The effect of this action was to deprive those state***

employees covered by contract of sufficient funds to honor those contracts. Instead, the State chose to provide increased wages to those employees not covered by contract who had no contractual rights at the expense of those state employees who had enforceable contractual rights.

In doing so, the 2008 State Personnel Board, acting on behalf of the Executive branch, breached the State's contractual obligations, and acted contrary to legislative appropriation and to the Act."

Entire *Order of Affirmance* and links to back ground articles are online at AFSCME18.org